SINGLE BENCH

chlpur

(3)

IN THE HIGH COURT OF CHHATTISGARH ATBILASPUR

WRIT PETITION NO. 5266 / 2005

PETITIONER : Smt. Soshan Khalkho, W/o Pradeep Kumar Khalkho Aged about 34years, Occup.-Assistant Teacher R/o- Primary School Gamahriya, Distt. - Jashpur

P.S. No. 555/16/05
Presented by Sanjay Agrawal
dated 24/10/05

VERSUES

RESPONDENTS : 1. State of Chhattisgarh Through Secretary Tribal Welfare Department. D.K.S.Bhawan,Raipur (C.G.)

2. Assistant Commissioner. Trible and Welfare department Jashpur,Distt.Jashpur (C.G.)

RECEIVED-COPY
24/10/05
CLERK to A. G. BILASPUR

WRIT PETITION U/A 226/ 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT DIRECTION ORDER TO DO JUSTICE IN THE MATTER

(25)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..W.P...5266..... **सन् 2005**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

27.10.2005

W.P.No.5266/2005

Shri Sanjay Agrawal, counsel for the petitioner.

Shri Akhihl Agrawal, Panel Lawyer for the State/ respondents No.1 and 2 on advance copy.

The petitioner, who is presently working as an Assistant Teacher and has been transferred from Primary School Gamahriya , District Jashpur to Primary School, Rajouti, District Jashpur vide transfer order dated 31.8.2005, has challenged the legality of the aforesaid order.

The contention of learned counsel for the petitioner is that the petitioner had undergone a major operation, therefore, she will not be able to go on transfer from Gamahriya to Rajouti.

The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan –V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

> "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of Inida & others Vs. Janardan Debanath & another,*** it was observed as follows:

PFS/2005 - 20,000

(26)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक ..... सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश – 2 – | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala-fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in ***National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan."(2001) 8 SCC 574***

Learned counsel for the petitioner could not point out any ground of malafide or infringement of statutory rules, framed for governing the transfer.

In the facts and circumstances of the case, I am not inclined to interfere in this order or transfer.

There is no merit in the petition and the same is dismissed.

So far as the personal difficulties of the petitioner on account of undergoing a major operation are concerned, the petitioner is free to file a representation before the concerned authority.

This petition stands finally disposed of.

Consequently, M.W.P.No.4250/2005 also stands disposed of.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

sunita

18/8/06

8/20/06